

What is a cartel?

Collusion between competitors, commonly known as a *cartel*, is a secret agreement or a concerted practice involving two or more undertakings aimed at restricting competition between them, namely by fixing prices, sharing clients or markets, or allocating production quotas; this allows the undertakings involved to control the market, to the detriment of consumer welfare.

Article 9 of the Competition Act (Law No. 19/2012, of 8 of May) prohibits “*agreements between undertakings, concerted practices between undertakings and decisions by associations of undertakings which have as their object or effect, to prevent, distort or restrict, in a significant way, competition in the whole or part of the national market*”.

Undertakings involved in cartels may be subject, among other sanctions, to fines of up to 10% of their annual turnover.

What is the Leniency Programme?

The Leniency Programme sets out a special legal framework for granting full or partial immunity from fines in proceedings for infringement of competition rules under article 9 of the Competition Act (Law No. 19/2012, of 8 of May) and article 101 of the Treaty on the Functioning of the European Union.

In accordance with article 75 of Law No. 19/2012, of 8 of May, immunity from fines or a reduction of fines shall be granted in administrative offence proceedings concerning agreements or concerted practices between two or more undertakings, prohibited pursuant to article 9 of Law No. 19/2012, of 8 of May and, if applicable, pursuant to article 101 of the Treaty on the Functioning of the European Union, where such agreements or practices are aimed at coordinating their competitive behaviour on the market or influencing relevant parameters of competition, specifically through the fixing of purchase or selling price or other trading conditions, the allocation of production or sales quotas, the sharing of markets, including collusion in auctions and bid-rigging in public procurement, restrictions on imports or exports or anti-competitive actions against other competitors.

What happens if an undertaking applies for leniency?

The Leniency Programme sets the conditions undertakings will have to satisfy in order to qualify for leniency when reporting to the Competition Authority any agreements and concerted practices in which they are or have been involved; subject to evaluation, undertakings may be granted full immunity or a reduction not exceeding 50% of the total amount of the fine.

How can you benefit from the Leniency Programme?

If you are aware of a cartel, please pay attention to the Leniency Programme.